

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF TIM HOGUE) APPEAL NO. 07-A-2096
from the decision of the Board of Equalization of Ada) FINAL DECISION
County for tax year 2007.) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing September 14, 2007, in Boise before Hearing Officer Steve Wallace. Board Member Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellant Tim Hogue appeared at hearing. Chief Deputy Assessor Tim Tallman and Appraiser Diana Landers appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. R1580600008.

The issue on appeal is the market value of an improved residential property with emphasis on the land value component.

The decision of the Ada County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$102,600, and the improvements' valuation is \$124,700, totaling \$227,300. Subject's 2007 assessed values were arrived at through trending. The land value component increased sharply. Appellant requests the land value be reduced to \$90,000, or "about double" the 2006 assessed value, and that the improvements' value remain the same, totaling \$214,700.

The subject property is a 1970 residence of 2,286 square feet situated on a .23 acre lot. The residence is a split-entry design. The lot is on an incline with access to a lower, busier street. The driveway traversed part of the incline.

Appellant stressed two (2) property impediments which are argued to uniquely affect the

subject lot's enjoyment and value. A road project on the lower street fronting subject added sidewalks. Due to the subject lot incline, a concrete retaining wall was constructed along the sidewalk. The wall has an approximate three-foot face along its length. Appellant reports the wall is somewhat unsightly and a graffiti target. It is necessary to have paint on hand to periodically address the graffiti.

The second impediment is the steep driveway accessing a busy street. Appellant noted the driveway can require 4-wheel drive and youthful driving attributes in inclement weather. Both the referenced impediments are unique to subject. The lots above subject are generally much more level and user-friendly. These last lots in Country Club Heights are larger and some have views. The other residential lots along subject's busy access street are likewise relatively level and possessing more typical access. None of the nearby lots is impacted like subject with a retaining wall along the sidewalk and street.

County information provides the Country Club Heights lots mostly range in assessed value from about \$125,000 to over \$300,000. One smaller lot next to subject, but not having the same steep and busy street access, is assessed for \$114,000. This last lot is slightly larger than subject at .28 acres. Lots with direct access to the busy street are generally assessed from \$70,000 to \$80,000. These lower valued lots range in size from .16 to .23 acres. Subject lot is .234 acres on an incline. The subject residence would seem to have some benefit in view over the street level lots, but reportedly there is not a foothills view.

On appeal the County focused its value presentation on the overall property as improved. Four comparable sales were presented along with adjustments to selling price for differences with the subject property. The adjusted sale prices ranged from about \$225,000 to \$265,000. Comparable no. 3 was opined to be the most comparable with an adjusted price of \$234,735.

Comparable no. 3 was a split-entry but did not have a steep driveway or graffiti problem. It did however have a smaller lot than subject. None of the comparable sales were adjusted for the impediments described by Appellant. Respondent noted it primarily approached its valuation of subject on an improved basis and did not look specifically at the land. It contends the overall subject property is fairly and equitably assessed at or below its market value.

The County did present some land sales, although they were often some distance and not particularly comparable. No price or appraisal adjustments were offered for locational and other differences.

Both parties presented helpful exhibit materials that coincided with the oral presentations.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Property is properly appraised at its market value for tax assessment purposes. It is further required that the total property value be apportioned between land and improvement categories. The taxpayer's chief concern on appeal goes to the reasonableness of the land component value. In the Board's experience the assessed land value is often determined by considering the land's value as if vacant. In so doing, bare land sales are identified and compared to the subject land. Neither party directly valued the subject lot in this fashion.

The subject lot's assessed value was arrived at through applying a very large trend to the prior year's valuation. A single factor was apparently determined and applied on a broad neighborhood basis. The Appellant expected (agreed to) a large increase in land value but not

to the degree or result reached by the Assessor. Appellant looked to nearby assessments and there respective property characteristics opining a lot value of about \$90,000 was reasonable. Subject's lot was assessed for \$102,600.

The subject property is unique from its neighbors regarding access and the presence of the "graffiti" retaining wall. The Board is concerned that the assessment of subject has not been demonstrated to specifically consider these attributes. Comparable sales did not possess these characteristics, nor was there any identified adjustment present in the assessment.

In the assessment of subject many important value factors were considered. In fact viewing the subject as the County would support a finding that the subject was "fairly and equitably" assessed. However it is this Board's judgment that the subject assessment should properly consider the property use impediments documented by taxpayer.

The High Court has held in determining the value of property the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. *Merris v. Ada County*, 100 Idaho 59, 593 P.2d 394 (1979). Subject's lot was assessed at a different value than others, however it is the Board's judgment that the impediments noted by taxpayer were not duly considered.

The requirement that all property be assessed at its actual market value is secondary to the constitutional mandate of equality of taxation. *Washington County v. First National Bank of Weiser*, 35 Idaho 438 at 444, 206 Pac. 1054 (1922). A practical uniformity in this instance requires the subject lot assessment be adjusted downward to reflect its unique negative value factors attendant to the property's use and enjoyment. Other lots on the same street were not so affected and had systematically lower assessments.

The record does not suggest an appropriate adjustment supported by appraisal and sales analysis. The land value sought by Appellant would reflect a negative adjustment of about 12% to the land. This is a sizable adjustment. The resulting \$90,000 land value would bare a reasonable relationship to nearby land assessments. With a similar adjustment to the County sales analysis, the final overall value would still fall in or near the range of indicated prices. For the purposes of determining this appeal, and noting the absence of information to the contrary, the Board will accept taxpayer's value (relief) claim which more fully considers all the pertinent value factors. We believe a buyer of the subject property would certainly consider the access challenges and maintenance and nuance of the retaining wall issue. Therefore the decision of the Ada County Board of Equalization will be reversed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is REVERSED lowering the subject land value to \$90,000. There is no change to the improvement category.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED November 29, 2007